



**STATE OF VERMONT
HUMAN RIGHTS COMMISSION**

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January 2004

Honorable Walter Freed, Speaker of the House
Honorable Peter Welch, President Pro Tempore of the Senate
The Statehouse, 115 State Street
Montpelier, Vermont

Re: FY 2003 Annual Report of the Vermont Human Rights Commission

Dear Mr. Speaker of the House and Mr. President Pro Tempore:

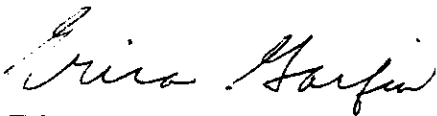
On behalf of the Commissioners and staff of the Human Rights Commission, we are pleased to submit the Commission's 2003 Annual Report. The Commission has been very actively engaged over the past year in enforcing Vermont's anti-discrimination statutes in housing, public accommodation and employment in matters in which the State of Vermont is the employer. The Commission also engaged in over one hundred different events involving outreach and education to members of the public. Additionally, the Commission has been active in advising the Legislature and other policy making bodies within the State on effective strategies to ensure the "enjoyment of full human and civil rights," as suggested in the Commission's enabling statute, 9 V.S.A. Chapter 139.

As guided by the strategic planning process of the Human Rights Commission embarked upon in 2001, the Commission has been pursuing three targeted areas priorities. Those priorities are *racism, school harassment and disability access*. These priorities have directed the Commission's work over the past year including assisting to organize the Study Circles on Racism in which well over 200 persons participated in Burlington last spring; the Commission's support of a legislative proposal to more aggressively prevent racial harassment in schools and the Commission's enforcement efforts to ensure full access for all persons to Vermont's places of public accommodation.

The strategic planning process also assisted the Commission to improve investigation efficiency, expand the use of mediation, increase the public's awareness of the activities of the Commission throughout Vermont; and, engage in regular organizational planning and assessment. These efforts will continue through FY2004.

Although Vermont continues its traditions of tolerance, there remain significant obstacles and isolated acts that serve to deprive persons of full enjoyment of their human and civil rights. The commissioners and staff of the Vermont Human Rights Commission remain committed to be addressing these challenges during FY04 and in the years to come.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Erica Garfin".

Erica Garfin, Commission Chair

A handwritten signature in cursive script, appearing to read "Robert Appel".

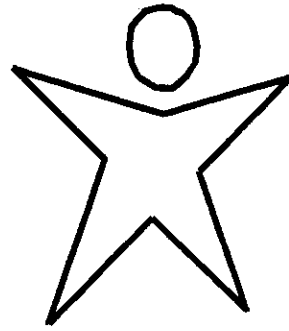
Robert Appel, Executive Director

Cc: Governor Jim Douglas
Lt. Governor Brian Dubie

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Vermont
**HUMAN
RIGHTS**
Commission



MISSION STATEMENT

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations. We pursue our mission by:

- **Enforcing laws**
- **Mediating disputes**
- **Educating the public**
- **Providing information and referrals**
- **Advancing effective public policies on human rights**

* A public accommodation is an establishment such as a school, restaurant, office or store that offers facilities, goods or services to the general public.

MANDATE

The Vermont Human Rights Commission is the state agency having jurisdiction over claims of unlawful discrimination in housing and state employment, and in the provision of goods and services by businesses (including stores, restaurants, professional offices, and hospitals) and by state and local governments (including schools). The Commission has three statutorily mandated roles: enforcement, conciliation, and education.

The Commission is charged with enforcing Vermont's civil rights laws. It investigates allegations of discrimination and determines whether there are reasonable grounds to believe that unlawful discrimination occurred in a case. The Commission's staff seeks to resolve charges through conciliation and mediation. If the Commission finds that there was discrimination in a case and the case cannot be settled, the Commission is authorized to go to court to obtain remedies for violations of the State's civil rights laws.

The Commission is also charged with increasing "public awareness of the importance of full civil and human rights for each inhabitant of this state" and with examining "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights" and recommending "measures designed to protect those rights." 9 V.S.A. §4552. In furtherance of these goals, the Commission's staff speaks with individuals and groups about their rights and responsibilities under state and federal civil rights laws, works with individuals, agencies, and groups to combat bias and bigotry, and supplies information, legal analyses, and advice to the Legislature.

STAFFING

There are five Human Rights Commissioners; one appointed each year by the governor for a five-year term, resulting in one commissioner slot becoming vacant each year. (Commissioners may be re-appointed.) The Commissioners meet monthly to discuss and decide the merits of individual discrimination complaints, as well as set the overall direction of the Commission and direct specific policy decisions of the organization.

The Commission also has a staff of five state employees. The Commissioners hire, supervise and direct the organization's executive director who also acts as legal counsel and legislative liaison. The executive director hires, supervises and directs a case manager, and three investigators.

By its enabling statute, the Human Rights Commission is a law enforcement agency rather than a legal services or advocacy organization.

ACHIEVING THE MISSION

Objective--Vermont will provide a welcoming environment for all persons irrespective of their race, color, sex, religion, national origin, disability, sexual orientation, age or marital status.

Vermont has a long-standing and high regard for the value of individual human rights.

- The 1777 constitution of the then Republic of Vermont specifically prohibited the practice of human slavery in its very first provision, becoming the first state to do so.
- Vermont refused to join the United States until the Bill of Rights had been ratified in 1791.

This respect for human dignity was evidenced in a number of ways in the early years of this state's history.

- Brownington resident Alexander Twilight was the first African-American to graduate from an American College (Middlebury, 1823) and the first to serve in a state legislature.
- Vermont was a center of abolitionist activity and a major route on the "Underground Railway."
- Vermont sent more troops per capita than any other northern state in the Civil War, suffering severe casualties in that conflict. It is often said that Vermonters fought more to free the slaves than in defense of the Union.

Unfortunately, Vermont's history is not one of seamless support for human rights.

- In the 1920's and 1930's, the Ku Klux Klan had a significant presence in some Vermont communities targeting Catholics, Jews and African-Americans for harassment.
- During the 1930s, the eugenics movement sought to sterilize persons with disabilities as well as native peoples in an effort to "improve the race."
- In 1968, the "Irasburg incident" occurred in which shots were fired into the home of an African-American minister who had recently moved to town with his family. After seeking assistance from law enforcement, the minister was investigated for adultery and left Vermont shortly thereafter.

Vermont's Response

1. Vermont passed its public accommodations act (1957) and fair employment law (1963) predating comparable provisions in the federal Civil Rights Act of 1964, providing protection on the basis of race, color, religion, national origin and sex. Subsequently age, disability and sexual orientation were added as protected categories to state laws.
2. The first Vermont Human Rights Commission was created by Executive Order in 1967, albeit without any staff. The present Human Rights Commission was created by the Legislature in 1988 to address housing and public accommodation discrimination, and to avoid the conflict that the Attorney General has in investigating discrimination complaints against state agencies.
3. In 1990, sexual orientation was first included as a protected category in the Hate Crime Act. This Protection was expanded in 1992 by including sexual orientation as a protected category in employment, housing, public accommodations, as well as in banking and insurance.
4. The Vermont Supreme Court decided Baker v. State in 1999, and the Legislature responded in 2000 by passing Act 91, creating Civil Unions.

This long and predominantly progressive history provides a firm base for the work of the Commission, but also raises expectations that the Commission will succeed in its mission.

Strategies to Achieve the Mission

- Complaints alleging violations of anti-discrimination laws are investigated impartially and decided in a timely manner by the Human Rights Commission.
- Complainants and respondents are offered timely and meaningful access to mediation services or informal means of conciliation which promote mutually satisfactory resolution of the dispute.
- Commission staff provides information, referrals, and educational programs.

Enforcement Program

Vermont's anti-discrimination laws protect people from discrimination based on race, color, sex, sexual orientation, religion, national origin, mental or physical disability, age, and marital status (though the categories apply differently to housing, employment, and public accommodations). In addition, a person may not be denied housing because of the presence of minor children or due to receipt of public assistance.

The staff receives and impartially investigates allegations of unlawful discrimination only after an individual has signed a complaint under oath. These Investigative Reports are then brought before the Commissioners at their monthly meeting for their review and determination in executive session. The parties to the complaint (the complainant and the respondent) are invited to attend and present why they agree or disagree with the staff recommendation, and be questioned by the commissioners about the circumstances surrounding the complaint.

Only if the Commission determines that there is sufficient evidence to show that illegal discrimination occurred does the Investigative Report become a public record. In addition, by statute, all settlements entered into by the Commission become public record. If the Commission issues a "cause" finding, the staff will actively pursue settlement negotiations for a period of not less than six months. The Commission will attempt, either through its staff or by providing a professional mediator, to bring the parties to agreement on a settlement to resolve the matter. Past settlements have included agreements not to discriminate in the future, modification of inaccessible premises or discriminatory policies, anti-discrimination education, letters of apology, and compensation for damages.

The Commission does not have authority to order any remedies or to impose fines. The Commission only has legal authority to investigate complaints, negotiate settlements, and to bring action in court after a cause finding and failed efforts to resolve the dispute informally. If illegal discrimination is proven to a judge and jury, the court may impose fines or monetary damages against the Respondent as well as remedial measures to avoid further violations of law.

Mediation Program

The Human Rights Commission instituted a Mediation Program in 1998 to provide professional mediators at no cost to parties to assist them in resolving their cases in a mutually acceptable manner. At the inception of the complaint process, Commission staff routinely sends the parties information about mediation and an invitation to participate in the mediation program. Mediation is entirely voluntary; it will not take place unless both parties agree to it. If the parties elect to participate in mediation, they meet with a mediator who attempts to help them to work out a mutually satisfactory resolution of the case. If the mediation produces a settlement, which the Commission accepts, the Commission will close the case and take no further action except to assist in enforcing the terms of the settlement, if that becomes necessary. If the case is not settled through mediation, the Commission's staff will complete the investigation of the case and the Commission will issue a final determination and if cause is found, enforcement action may ensue if conciliation fails.

Education and Outreach

The Human Rights Commission is charged with increasing the public's awareness of Vermont's civil rights laws. It fulfills this mandate by conducting seminars about civil rights laws and the Commission's role in enforcing those laws, by speaking with groups about their rights and responsibilities under those laws, and by responding to inquiries from members of the public.

OUTLINE OF AN INVESTIGATION

- ☐ Office hours: 8:00 a.m. - 5:00 p.m. Monday - Friday
Telephone number: (800) 416-2010 (Voice/TTY) (toll-free)
(802) 828-2480 (Voice/TTY)
Fax number: (802) 828-2481
Mailing address: 135 State Street
(Located on the 2nd floor; accessible by elevator)
Drawer 33
Montpelier VT 05633-6301
E-mail address: human.rights@state.vt.us
Website: www.hrc.state.vt.us
- ☐ Anyone who believes that he or she has been subject to unlawful discrimination may file a charge under oath with the Commission. Charges may be filed in person at the Commission's offices, by telephone, or in writing. The Commission may accept a charge for investigation if it states a prima facie case, that is, if the facts alleged in the charge amount to unlawful discrimination.
- ☐ The person or entity against which a charge has been filed is sent a copy of the charge and asked to respond in writing to the allegations in the charge.
- ☐ Investigators on the Commission's staff investigate the charge and the response by interviewing the parties and witnesses and gathering and analyzing documents and other information.
- ☐ The Commission encourages settlements between parties and its staff attempts to facilitate settlements at all stages of a case. In addition, the Commission offers parties the services of professional mediators at no cost to assist them to settle cases. If the parties arrive at a resolution of the charge that is satisfactory to them and the Commission, the Commission will close the case and take no further action in the case except to assist in enforcing the terms of the settlement, if that becomes necessary.
- ☐ If the parties cannot arrive at a settlement, the Commission's Investigators will complete the investigation and prepare an Investigative Report. The Report states the facts as the Investigator found them and, based upon those facts and the applicable law, recommends that the Commission find either that there are reasonable grounds to believe that unlawful discrimination occurred or that there are no such grounds.

- ☐ The Investigative Report is not the final outcome of the case; it is only a recommendation to the Commissioners. The Commission sends the Investigative Report to both parties and invites them to submit written responses explaining why they agree or disagree with the Report. The Commissioners review the Investigative Report and the parties' written responses to the Report before they meet to consider a case.
- ☐ The Commission notifies the parties of the date of the meeting at which the Commissioners will consider their case and encourages them to attend the meeting in person or by telephone. Parties attending the meeting have the opportunity to make oral presentations to the Commissioners and to answer the Commissioners' questions about the case. After considering the Investigative Report, the written responses of the parties, and the presentations at the meeting, the Commissioners make a final determination, by majority vote, whether there are reasonable grounds to believe that unlawful discrimination occurred.
- ☐ If the Commission finds reasonable grounds to believe that discrimination occurred, its staff will again try to facilitate a settlement. If no settlement can be reached, the Commission will either commence a lawsuit or close the case.

JURISDICTION

The Vermont Human Rights Commission has jurisdiction over allegations of unlawful discrimination in the following areas:

<u>HOUSING</u> (rental/sale)	<u>PUBLIC ACCOMMODATIONS</u> (schools, restaurants, stores, professional offices, govern- ment agencies, and other places offering goods or services to the public)	<u>STATE EMPLOYMENT</u>
Race	Race	Race
Color	Color	Color
Sex	Sex	Sex
Religion	Religion	Religion
National Origin	National Origin	National Origin
Disability	Disability	Disability
Sexual Orientation	Sexual Orientation	Sexual Orientation
Marital Status	Marital Status	
Age		Age
Minor Children		
Public Assistance		
		Ancestry
		Place of Birth
		HIV related blood test
		Workers' Compensation
		Family/Parental Leave
Effective 3/15/03	Breastfeeding mothers	

EDUCATION AND OUTREACH

The Human Rights Commission is charged with increasing the public's awareness of Vermont's civil rights laws. It fulfills this mandate by conducting seminars about civil rights laws and the Commission's role in enforcing those laws, by speaking with groups about their rights and responsibilities under those laws, and by responding to inquiries from members of the public. During FY03, the Commissioner staff participated in over one hundred (100) different education and outreach efforts. These events are described below:

August 26, 2002 - ADA Coalition - Investigator Sam Abel-Palmer attended an Americans with Disabilities Coalition meeting at the Vermont Center for Independent Living in Montpelier.

September 6, 2002 - Vermont Association of Realtors - Investigator Sam Abel-Palmer participated in a fair housing training for the Vermont Association of Realtors' annual meeting.

September 4, 2002 - Vermont Refugee and Immigrant Service Providers Network - Investigator Tracey Tsugawa attended this meeting.

September 6, 2002 - Anti-Racism Action/Study Group - Executive Director Robert Appel attended meeting of Legislative Sub-Committee to start work on a legislative proposal to better address racial harassment in Vermont schools.

September 10, 2002 - Supreme Court's Equal Access to Justice Committee - Executive Director Robert Appel attended a meeting at which there was a discussion of: anti-racism work now on-going in Burlington; racial disparity in criminal justice study which is now six months overdue; communication assistants for persons with developmental disabilities; and, improving quality and availability of foreign language and ASL interpreters.

September 11, 2002 - Vermont Bar Association Disability Law Committee - Executive Director Robert Appel attended a meeting and discussed potential inter-disciplinary training on rights of youths with disabilities and potential legislative reforms on attorney's fees and states being held immune from suits.

September 11, 2002 - Vermont Association of Realtors - Investigator Sam Abel-Palmer met with the staff and consultants for a professional training company to plan and develop fair housing training session over the next two (2) years for realtors in Vermont.

September 12, 2002 - Vermont LEADS (Leadership for Equity, Anti-racism and Diversity in Schools) Teacher Training Task Force Meeting - Executive Director Robert Appel attended a meeting during which the group reviewed original mission and five point plan consisting of 1) Public Media Campaign and Web Site; 2) Training for Teachers and Other School Staff (in addition to what is written into draft report); 3) Obligations and Responsibilities of School Leaders; 4) Community Outreach and Engagement; and 5) Student-Sponsored Student Voice Activities. Focus was on reviewing the status of Teacher Training recommendations created by this Task Force back in 1999.

September 16, 2002 - Vermont Refugee Resettlement Program (VRRP) – Investigator Tracey Tsugawa attended the (VRRP) Council meeting.

September 17, 2002 - Vermont Association of Realtors - Investigator Investigator Sam Abel-Palmer participated in a fair housing training for newly licensed realtors.

September 18, 2002 - Howard Center for Human Services – Investigator Tracey Tsugawa held a workshop with Martha Csala from the Vermont Office of the Attorney General, for the staff of the Howard Center for Human Services.

September 19, 2002 - Burlington Anti-Racism Study/Action Group - Executive Director Robert Appel attended a meeting of the full group meeting that heard the reports of the three sub-committees, and started to address organizational issues including the drafting of a mission (and vision) statement, a steering committee and budgetary needs.

September 19, 2002 - Housing Authority Directors meeting - Executive Director Robert Appel met with the directors of the state's housing authorities to discuss in general terms the work of the Commission and, in particular, the Commission's recent decisions in Section 8 cases, and the potential impact on their work.

September 21, 2002 - Sixth Annual Women's Economic Opportunity Conference - Investigator Paul Erlbaum attended for the Commission and provided HRC literature and answered questions regarding the HRC and Vermont's civil right laws for some of the nearly 300 people in attendance.

September 24, 2002 - Vermont Department of Housing Fair Housing Sub-Committee - Executive Director Robert Appel attended a meeting and discussed HRC's Section 8 cases and their potential impact as well as updating the fair housing section of the state's Consolidated Plan (HUD).

September 25, 2002 - Anti-Racism Group's Legislative Sub-Committee - Executive Director Robert Appel attended and the Sub-Committee reviewed the recommendations of the State Advisory Committee 1999 Report of Racial Harassment in Vermont Schools

to determine what has been accomplished and what is left to be done. The Sub-Committee then identified those issues that could be addressed by proposed legislation.

September 27, 2002 – Vermont LEADS Teacher Training Task Force Meeting – Executive Director Robert Appel attended this meeting during which this group met with an eye to formulating responses to the State Advisory Committee's requests for information as to what progress has been made in this arena since the 1999 Report and what still needs to be done.

September 30, 2002 - Vermont Department of Agriculture – Investigator Tracey Tsugawa participated in a workshop on employment discrimination for the Vermont Department of Agriculture.

October 2, 2002 - Interpreter Task Force – Investigator Tracey Tsugawa attended the Interpreter Task Force meeting.

October 3, 2002 - Vermont Refugee Resettlement Program – Investigator Tracey Tsugawa met with Martha Csala, Assistant Attorney General and Stacie Blake of the Vermont Refugee Resettlement Program to discuss how to address the issue of getting staff and refugees to report incidents of hate crimes, discrimination and harassment to the Attorney General and the Human Rights Commission offices.

October 6, 2002 - Anti-Racism Action/Study Group - Executive Director Robert Appel attended a meeting of the Study Circle Sub-Committee. The group organized a pilot of the study circle process by group members, as a prelude to recruiting community members at-large to have a community-wide dialogue process focused on racism.

October 9, 2002 - Vermont Commission on Women - Executive Director Robert Appel met with the commissioners, staff and invited guests of the newly named Vermont Commission on Women at their monthly meeting to discuss in general terms the work of the Commission. Robert spoke about how the missions of respective commissions are distinct. The HRC is focused on ENFORCEMENT and the VCW is focused on ADVOCACY. Robert spoke about HRC's strategic planning process and the Commission's three current enforcement priorities; i.e., racism, school harassment and disability access.

October 16, 2002 - Safe Space - Investigator Sam Abel-Palmer attended a community forum-focus group hosted by Safe Space, a new organization working to end domestic and other forms of violence against gay, lesbian and transgender people. The purpose of the meeting was to create community contacts and to discuss ways for the group to do its work more effectively.

October 22, 2002 - Anti-Racism Action/Study Group - Executive Director Robert Appel attended the large group meeting following by a meeting of the Action Sub-Group.

October 25, 2002 - Vermont School Board Association/Vermont Superintendents Association - Executive Director Robert Appel conducted a workshop with Assistant Attorney General Kate Hayes on school harassment and hate crimes, which was attended by 25 persons. In addition, HRC materials were prominently displayed from 11:00 a.m. to 5:00 p.m. and many attendees visited the HRC table, took materials and spoke with the Executive Director.

October 28, 2002 - Press Conference on Proposition 4 to allow Legislature to raise the mandatory age of retirement for judges - This press conference was organized by the American Association of Retired Persons (AARP) and the Community of Vermont Elders (COVE). Executive Director Robert Appel attended a State House press conference to get the word out about the referendum on the proposed amendment to the Vermont Constitution.

October 30, 2002 - Vermont Department of Housing and Community Affairs - Fair Housing Sub-Committee - Executive Director Robert Appel attended this meeting and discussed the need to revise and update the 1996 Analysis of Impediments to Fair Housing Choice in the State of Vermont. The Sub-Committee analyzed the 2000 census data and brainstormed other revisions to the 1996 report.

November 5, 2002 - Fair Housing Project - Investigator Sam Abel-Palmer met with Rob Meehan of the Champlain Valley Office of Economic Opportunity's Fair Housing Project to discuss creating a joint fair housing newsletter.

November 7, 2002 - Refugee Immigrant Service Provider Network - Investigator Tracey Tsugawa attended a meeting of the Refugee Immigrant Service Provider Network in Burlington.

November 14, 2002 - Burlington YouthBuild - Executive Director Robert Appel met with the participants and staff of YouthBuild Burlington to discuss issues of workplace harassment. YouthBuild is a job training, education and leadership development program for young adults (18-24) who have dropped out of school. A lively and broad ranging discussion followed the presentation.

November 14, 2002 - Technical Assistance Providers' Association (TAPA) Conference - Executive Director Robert Appel facilitated a discussion with the stated topic of Diversity at the Ninth Annual TAPA Conference entitled, "Investing in Entrepreneurs: Economic Success for Vermont." The outcome of the discussion group was to call for a Minority Owned Business Summit where the successes and challenges facing such entrepreneurs could be explored. There was also a discussion of the Governor's Affirmative Action Council and its potential future role.

November 20, 2002 - Executive Director Robert Appel attended both the Legislative Sub-Committee and large Burlington Anti- Racism Coalition Meeting.

November 20, 2002 - U S Commission on Civil Rights - Executive Director Robert Appel attended the Town Meeting held in Burlington by the State Advisory Committee to the U.S. Commission on Civil Rights. Both Robert and Investigator Tracey Tsugawa testified at the request of the Committee. Robert spoke about how the issues of racism and school harassment were identified as two of three enforcement priorities through the HRC's Strategic Planning process. He provided the Committee with statistics as to the number and outcomes of racial harassment complaints received by the HRC. He also spoke about the dynamic that students of color are disciplined for resorting to self-help when the school does not provide a positive learning environment for *all* of its students. Robert also spoke about the fear and reality of retaliation for reporting incidents of racial harassment in school, and observed that the number of cases of racial harassment in schools that are filed with the HRC although disproportionately large for the percentage of students of color is likely just the tip of the iceberg. Investigator Tracey Tsugawa spoke to the challenges inherent in investigating such complaints.

November 21, 2002 - Community College of Vermont – Investigator Tracey Tsugawa led a discussion about discrimination and civil rights at two Community College of Vermont, English as second language classes.

November 21, 2002 - Interpreter Task Force – Investigator Tracey Tsugawa attended an Interpreter Task Force meeting at the Vermont Refugee Resettlement Project in Colchester.

November 26, 2002 – “Closing the Gap” Educational Equity Conference- Executive Director Robert Appel met with a number of educators and civil rights advocates to assist in the planning of a Vermont Equity and Diversity Conference to be held on May 14, 2003 at Killington Resort. The focus of the Conference will be to address not only Equity and Diversity issues, but now will include anti-harassment training as well.

December 3, 2002 - Equal Access to Justice Committee – Investigator Tracey Tsugawa attended the Equal Access to Justice Committee at the Supreme Court.

December 3, 2002 - Predatory Lending Conference - Executive Director Robert Appel and Investigator Sam Abel-Palmer attended this Predatory Lending Conference. Sam took the opportunity to remind the housing and lending community present that fair housing enforcement is available through the Human Rights Commission. Networking opportunities were available.

December 4 and 12, 2002 - Community Access - Vermont Center for Independent Living – Investigator Tracey Tsugawa and Investigator Sam Abel-Palmer attended Community Access team training sponsored by the Vermont Center for Independent Living. This training was to discuss architectural barrier issues and teach participants how to take appropriate measurements, etc.

December 9, 2002 - Court Interpreters Task Force – Investigator Tracey Tsugawa attended a meeting of the Sub-Committee on Court Interpreters in Montpelier.

December 10, 2002 - International Human Rights Day - Investigator Paul Erlbaum was interviewed on a local radio station about Vermont's anti-discrimination laws and the Commission's procedures and took questions from callers. The interview was for approximately 45 minutes.

December 11, 2002 - Vermont Association of Realtors - Fair Housing Training - Investigator Sam Abel-Palmer held a training session for new realtor licensees at the Vermont Association of Realtors regarding housing discrimination.

December 17, 2002 - Howard Center for Human Services - Investigator Sam Abel-Palmer met with Stan Baker, Howard Center for Human Services to begin planning a training session for service providers in the Burlington area about discrimination, especially disability discrimination.

December 20, 2002 - Vermont Association of Realtors - Fair Housing Training - Investigator Sam Abel-Palmer held a training session on housing discrimination for a group of area realtors for re-licensing continuing education.

January 8, 2003 - Interpreters Task Force – Investigator Tracey Tsugawa attended a meeting of the Interpreter Task Force at the Vermont Refugee Resettlement Project in Colchester.

January 9, 2003 - Network of State Investigators - Investigator Paul Erlbaum attended a Network of State Investigators meeting in Montpelier, which was also attended, by approximately 20 other investigators from a variety of state agencies and departments.

January 9, 2003 - Meeting with Chittenden County Police Chiefs - Gary Margolis, Chief of the UVM Police, invited Executive Director Robert Appel, Executive Director, Vermont Human Rights Commission to come and discuss the Commission-supported H. 282, Racial Disparity in Criminal Justice Task Force bill. This group stated that it wants to be proactive in addressing the perception of racial profiling issues that all present agreed that Vermont would continue to see grow. There was a commitment to revisit this issue with the assistance of experts in the field within the next several months. There was also a discussion of the need for increased law enforcement access to foreign and sign language interpreters given complaints received at the HRC.

January 23, 2003 - Section 8 Working Group - Executive Director Robert Appel attended this diverse gathering of the housing community which continues to coalesce around a renewed statewide education campaign targeted at ALL landlords to explain lawful and unlawful practices. This group was critical in turning out nearly 75 persons at the Fair Housing Seminar on February 7th, which was uniformly well received.

February 7, 2003 - Vermont Bar Association Fair Housing Seminar - Executive Director Robert Appel presented, with others, at a very well attended and well received 3.5 hour continuing legal education seminar that drew landlords, lawyers, advocates, housing administrators, realtors and others.

February 10, 2003 - Vermont Bar Association's Center for Public Education - Forbidden Fruit: Strategies for Teaching Controversial Subjects - Executive Director Robert Appel presented to the Vermont Bar Association, with others, on the tension between First Amendment Free Speech and regulating student-to-student harassment in schools. The presentation received high evaluation marks from the 40 or so secondary educators in attendance.

February 14, 2003 - State Advisory Committee to U.S. Committee on Civil Rights - Vermont Interactive Television - Executive Director Robert Appel participated from the Vermont Interactive Television site at Vermont Technical College in Randolph, in this hearing by the State Advisory Committee to the U. S. Commission on Civil Rights.

February 18, 2003 - Vermont Cares - Investigator Sam Abel-Palmer and Investigator Tracey Tsugawa conducted sexual harassment training for the staff at Vermont Cares. Vermont Cares is an AIDS client oriented organization in the Burlington area.

February 20, 2003 - Vermont Center for Independent Living - Investigator Sam Abel-Palmer met with Ronnie Ciambra, the attorney for the Vermont Center for Independent living to discuss strategies to address disability discrimination issues.

February 24, 2003 - Americans with Disabilities Coalition - Investigator Sam Abel-Palmer attended an Americans with Disabilities Coalition meeting at the Vermont Center for Independent Living in Montpelier.

February 27, 2003 - Disability Awareness Day - Executive Director Robert Appel attended a breakfast at the Vermont State House and the morning program at the Pavilion Auditorium including an address by Gov. Douglas regarding Disability Awareness Day activities sponsored by the Vermont Human Rights Commission along with a multitude of other organizations.

Ongoing - Islamic Society of Vermont - Investigator Paul Erlbaum made periodic telephone and e-mail contact with a representative of the Islamic Society and the president of the Society to monitor the treatment of members of the congregation in the community since the 9/11/01 terrorist incident.

March 10, 2003 - Equal Access to Justice Task Force - Executive Director Robert Appel attended this meeting at which the following issues were discussed: the Vermont Center for Justice Research's recently released study on racial disparity in criminal justice; proposed interpreter standards; the use of communication assistants in court for those with cognitive impairments; and, other related matters.

March 11, 2003 - Vermont Association of Realtors - Investigator Sam Abel-Palmer conducted fair housing training for the Vermont Association of Realtors in Montpelier.

March 12, 2003 - United Way of Chittenden County - Executive Director Robert Appel attended and spoke at a well-attended breakfast with community leaders about the upcoming Burlington Anti-Racism Coalition Study Circle processes.

March 17, 2003 - Fair Housing Federal Law Conference - Executive Director Robert Appel attended the Federal Fair Housing Law Conference in Baltimore, Maryland.

March 26, 2003 - Burlington Anti-Racism Coalition Study Circle Kick-Off Dinner - Executive Director Robert Appel attended and spoke to the more than two hundred persons assembled of the Commission's involvement in the Coalition, the faces of racism in Vermont and the need for a sustained and intentional community response.

April 2, 2003 - Fair Housing Month - Channel 17 - Executive Director Robert Appel appeared on a Channel 17 Adelpia Cable show hosted by HUD Vermont Field Director Mike McNamara to commemorate the 35th Anniversary of the passage of the Federal Fair Housing Act and Fair Housing Month.

April 2, 2003 - Women's Visibility Day - Executive Director Robert Appel participated in Women's Visibility Day at the State House by providing Commission materials at a literature table in the "Card Room," outside the well of the House.

April 3, 2003 - Interpreter Task Force - Investigator Tracey Tsugawa attended an Interpreter Task Force meeting at the Vermont Refugee Resettlement Project .

April 3, 2003 - Fair Housing Project Press Conference - Executive Director Robert Appel participated in the Champlain Valley Office of Economic Opportunity - Fair Housing Project's press conference on sales audit testing showing significant racial and disability based discrimination in the sales market.

April 7, 2003 - Governor's Symposium on Employment of People with Disabilities - Executive Director Robert Appel and Investigator Sam Abel-Palmer attended the Governor's Symposium on Employment of People with Disabilities in Burlington that featured Mike Wallace and focused on persons with mental impairments.

April 9, 2003 - Northern New England Refugee Health Conference – Investigator Tracey Tsugawa conducted a workshop on providing interpreter services to limited English proficiency persons at this conference.

April 11, 2003 - Fair Housing Training - Investigator Sam Abel-Palmer conducted a Fair Housing training for a group of 15 realtors in South Burlington.

April 16, 2003 - Burlington Community Access - Investigator Sam Abel-Palmer attended a meeting of the Burlington Community Disability Access group, sponsored by the Vermont Center for Independent Living.

April 22/23, 2003 - New England Regional Fair Housing Training - Executive Director Robert Appel attended the New England Regional Fair Housing Training in Providence, Rhode Island which focused, in part, on Section 8 discrimination. Robert also attended a very good workshop put on by the Office of Civil Rights, Health and Human Services on Limited English Proficiency as well as an excellent session on lead paint and familial status discrimination.

April 28 - May 2, 2003 - Regional Conference - U. S. Office of Housing and Urban Development (HUD) - Investigator Tracey Tsugawa, Investigator Paul Erlbaum, Investigator Sam Abel-Palmer and Case Manager Carol Bliss attended the annual HUD Conference in Atlanta, Georgia.

May 6, 2003 - Vermont Association of Realtors - Investigator Sam Abel-Palmer provided fair housing training for the Vermont Association of Realtors.

May 7, 2003 - Vermont Refugee Resettlement Program - Executive Director Robert Appel met with Stacie Blake, Executive Director of the Vermont Refugee Resettlement Program, to discuss the considerable difficulties facing new immigrants with Limited English Proficiency. We are developing strategies on ways to engage high level executive branch policy makers on addressing the issues faced by new immigrants.

May 13, 2003 - "Closing the Gap" presented by Vermont Institute – Investigator Tracey Tsugawa conducted a workshop on harassment in schools for about 30 school staff persons from throughout Vermont.

May 15, 2003 - Peace Vermont – "Our Endangered Civil Liberties" - Executive Director Robert Appel served as moderator for this seminar sponsored by Peace Vermont and held at Bethany Church in Montpelier. The event, attended by about 40 people, featured Vermont Law School Professors Peter Teachout and Cheryl Hannah, VT-ACLU Executive Director Ben Scotch and Representative Bill Lippert.

May 15, 2003 - Interpreter Task Force – Investigator Tracey Tsugawa attended a meeting of the Interpreter Task Force at the Vermont Refugee Resettlement Project in Colchester.

May 20, 2003 - Sub-Committee on Court Interpreters – Investigator Tracey Tsugawa attended a meeting of the Sub-Committee on Court Interpreters in Montpelier.

May 27, 2003 - Fair Housing Working Group – Executive Director Robert Appel, Investigator Tracey Tsugawa and Investigator Sam Abel-Palmer attended a meeting of the Fair Housing Working Group in Montpelier.

May 30, 2003 - Equal Time - Executive Director Robert Appel participated as an in-studio guest on Equal Time, a talk show hosted by Anthony Pollina on WDEV Radio Station. Co-hosted by Paj Wadley-Bailey, the show focused on Racism in Vermont with an emphasis on racial harassment in schools and racial discrimination in housing. Robert spoke about the recent Housing Sales Audit conducted by the Fair Housing Project and also about H.113, the Racial Harassment in Schools bill.

June 5, 2003 – "Appropriate Dispute Resolution (ADR) and its Role in a Responsive Vermont Government" - Executive Director Robert Appel attended the annual ADR event at the Capitol Plaza with Governor Douglas in attendance and giving a luncheon address, then hearing from state agency people who use ADR programs including the Human Rights Commission. This event went very well with a great deal of interest expressed by attendees in the Human Rights Commission's mediation program.

June 5, 2003 - Refugee and Immigrant Service Providers Network – Investigator Tracey Tsugawa attended a meeting of the Refugee and Immigrant Services Providers Network.

June 9, 2003 - Vermont Association of Realtors - Investigator Sam Abel-Palmer made a housing presentation to the Vermont Association of Realtors in Rutland.

June 12, 2003 – Vermont Public Radio interview - Executive Director Robert Appel spoke on the Vermont Public Radio morning show about racial harassment in Vermont. The Free Press article triggered the story the preceding day about a Winooski restaurateur being the target of racial threats.

June 12, 2003 – “Uniting to Increase Homeownership in Vermont” HUD Conference - Executive Director Robert Appel spoke at the conference at Burlington City Hall. Robert spoke about the work of the Human Rights Commission, Fair Housing laws and procedures, changing demographics in Vermont and the Fair Housing Project's recent Sales Test Audit showing race discrimination in one out of two tests.

June 14, 2003 - Burlington Pride - Investigator Sam Abel-Palmer staffed an informational booth to provide information about the Commission at the Burlington Pride Festival.

June 16, 2003 – Equal Access to Justice Task Force - Executive Director Robert Appel attended a meeting of the Supreme Court's Equal Access to Justice Task force where there was a discussion of racial disparity in criminal justice bills, the outcome of the Burlington Study Circle process, communication assistance to persons with cognitive impairments, and provision of foreign language interpreters to parties and witnesses in court proceedings.

June 19, 2003 - Interpreter Task Force – Investigator Tracey Tsugawa attended a meeting of the Interpreter Task Force.

June 25, 2003 - Department of Social and Rehabilitation Services – Investigator Tracey Tsugawa made a presentation on interpreter services and the law at the Vermont Department of Social and Rehabilitation Services.

June 26, 2003 - Vermont Association of Realtors - Investigator Sam Abel-Palmer made a housing presentation to a group of realtors in Bennington.

CASE SUMMARIES

By statute, only if the Human Rights Commissioners find that there are reasonable grounds to believe that unlawful discrimination occurred, the Investigative Report and the Final Determination (including the identities of the Charging Party and the Respondent) become public documents. If the Human Rights Commission finds that there are not reasonable grounds to believe that unlawful discrimination occurred, the Commission must keep the identities of the parties confidential. In addition, any settlement in which the Human Rights Commission is a party also becomes a public document. Some of the more notable cases in which the Commission either issued a "cause" finding or entered into a settlement agreement are summarized below.

PUBLIC ACCOMMODATIONS

Racial Discrimination

John Lee v. Benway's Transportation, Inc. (Benway's Taxi)

On February 1, 2001, the Charging Party filed a charge of discrimination against Benway's Taxi, alleging that a Benway's driver delivered services to him in a marked hostile fashion due to his race and color. The Charging Party claimed that the female cab driver spoke to him abusively, called him racial epithets, physically assaulted him, and attempted to run him down with a taxi. (The Charging Party is African-American).

The Final Determination of the Human Rights Commission, reached on June 18, 2002, found that there were reasonable grounds to believe that Benway's Transportation, Inc., doing business as Benway's Taxi, discriminated against The Charging Party on the basis of race and color. Efforts to resolve this matter through first conciliation and then mediation extended into FY 03, but did not bear fruit. The Commission filed suit in Washington Superior Court against Benway's Transportation on behalf of Mr. Lee in December 2003 seeking both compensatory and punitive damages as well as investigative costs and attorney's fees.

"Mr. and Mrs. Silver" on behalf of "J.S." v. Grand Isle Supervisory Union

(NOTE: Party Identification Protection has been granted to the minor child who is the Charging Party)

On March 22, 2002, "Mr. and Mrs. Silver" filed a charge of discrimination on behalf of their son, "J.S.," that the Grand Isle Supervisory Union discriminated against him because of race, color, national origin, disability and retaliation. J.S. is of Hispanic origin, and has been diagnosed with Attention Deficit Hyperactive Disorder. The Silvers charge that J.S. was repeatedly subjected to name-calling based on his race, color and national origin, and that the School failed to respond appropriately to these incidents. They further charge that the Principal of the Grand Isle School made a negative remark to J.S. based on his national origin. The Silvers also charge that J.S. was subjected to harsher discipline than other students, and was singled out by the School as a troublemaker because of his race, color and national origin. The Silvers further charge that J.S. was labeled as a threat to the safety of other students because of behaviors caused by his disability, and that he was kept out of school and restricted from participating in after-school activities because of this assessment. The Silvers finally

charge that the School retaliated against J.S. because the family sought legal counsel to address these problems.

The Commission met on this matter on December 10, 2002 and found reasonable grounds to believe that the Grand Isle Supervisory Union illegally discriminated against "J.S." because of his disability and his race, color and national origin; however, the Commission found no reasonable grounds to believe that the Grand Isle Supervisory Union illegally discriminated against "J.S." because of retaliation. The parties are actively engaged in mediation in an effort to resolve this dispute.

Gender Discrimination

McCarty v. Freedom Chevrolet

On July 2, 2002 Denise McCarty filed a Charge of Discrimination against Freedom Chevrolet alleging that it discriminated against her because of her sex by telling her that her car needed additional work before it would pass inspection. In contrast, when her husband took the car in for inspection, Freedom Chevrolet said nothing was wrong with the car and it passed inspection. The investigation found that Mr. McCarty's word held more sway with the service manager over Ms. McCarty's word.

On January 15, 2003, the Human Rights Commission found reasonable grounds to believe that Freedom Chevrolet discriminated against Ms. McCarty because of her sex. After the Executive Director actively engaged the parties in conciliation efforts for six months, which proved fruitless, the Commission declined to litigate on behalf of the Charging Party.

Disability Discrimination

Mary Kelly Sohm v. Colonial Spa

The Charging Party alleged that the Colonial Spa, which houses a swimming pool in Brattleboro, was not in compliance with accessibility standards required by state public accommodation law. Although the Charging Party was not willing to enter into any agreement that did not provide modifications beyond those that are required by law, the Commission entered into an agreement with the Respondent requiring the Colonial Spa to become fully compliant with the American with Disabilities Act Accessibility Guidelines. The Commission is still monitoring the respondent's compliance with that agreement.

Gwen Evans v. Vermont Department of Prevention, Assistance, Transition and Health Access (PATH)

On March 4, 2002 Gwen Evans filed a Charge of Discrimination that PATH discriminated against her, by failing to provide a reasonable accommodation for her disability. Ms. Evans, who is blind, charges that she asked the Department to send her information in a format other than written letters, but that the Department has failed to do so. On April 4, 2003, the Human Rights Commission found reasonable grounds to believe that the Vermont Department of Prevention, Assistance, Transition and Health Access illegally discriminated against Ms. Evans, but that the Department has

subsequently taken further measures to address the problem. The parties are actively engaged in mediation in an effort to resolve this dispute.

Errol Burke & Densford Fletcher v. Payless Shoe Source, Inc

The Charging Parties, Jamaican nationals working seasonally in the apple industry, alleged that they were subjected to closer scrutiny and falsely accused of shoplifting ('retail racial profiling') by the respondent based on their race, national origin and color. Although the respondent denied the allegations, the parties entered into an agreement, which included the Respondent's payment of an undisclosed sum of money to each individual. The Respondent also entered into a separate agreement with the Commission agreeing not to retaliate against any person for filing the charge, and committing to complying with the public accommodation law in the future.

HOUSING

Disability Discrimination

Thelma Columb and Dion LaShay v. Regional Affordable Housing Corporation, Ben-South and Dianne Binnick / James Parker v. Regional Affordable Housing Corporation, Ben-South and Dianne Binnick.

The Charging Parties in these two cases claimed that Regional Affordable Housing Corporation (RAHC), Ben-South and Dianne Binnick of Bennington discriminated against them because of their disabilities. In one case, Mr. Parker claimed that RAHC refused to provide a reasonable accommodation for his disability by moving him to another apartment, and in the other case Ms. Columb and Mr. LaShay claimed that RAHC failed to process their application for an apartment. Both claimed that the head of RAHC made inappropriate inquiries about their disabilities. The Commission concluded that RAHC made inappropriate inquiries about the parties' disabilities, including asking about their medications. The Commission also determined that RAHC's property manager in one case made statements discouraging people with disabilities from applying, and in another case refused a request to meet with the party's peer counselor to discuss a possible accommodation. Both cases were successfully resolved through efforts of commission staff and a professional mediator. In both cases, the respondent agreed to pay the charging parties compensatory damages in an amount totaling over \$10,000. In addition, the respondent has revised its fair housing policies, developed a reasonable accommodation policy and request form and has engaged a fair housing consultant to conduct training for the respondent's board members and all of its staff.

Discrimination Against Public Assistance Recipients

Darcy Young v. Preston Property Management, Inc.

The Charging Party alleged that Preston Property Management refused to rent an apartment to her because she received Section 8 housing assistance. The owner of the company did not deny the charge, claiming that Section 8 is a voluntary program. The Commission determined that by making a blanket refusal to participate in Section 8, Preston violated the provision of Vermont's Fair Housing law that makes it illegal to discriminate on the basis of receipt of public assistance, including federal housing assistance. On January 27, 2003, the Commission and Ms. Young filed suit after

Preston Property Management refused to enter into conciliation discussions. The matter was resolved by a Consent Decree approved by the Washington Superior Court on August 1, 2003, which requires Preston to assist the Charging Party in finding a new apartment, and to welcome future Section 8 participants as applicants

Presence of Minor Children

Darcy Young v. P. G. Adams, Inc.

On July 28, 2000, the Charging Party filed a charge of discrimination against P. G. Adams, Inc., alleging that she was denied the opportunity to rent an apartment in Burlington owned by P. G. Adams, Inc. and managed by Ashley Adams because she received Section 8 housing assistance. Paul Adams (of P. G. Adams, Inc.) and Ashley Adams claimed that they had no recollection of having had an encounter with Ms. Young, but Ms. Adams did admit that, at the time, she did not accept applications from potential renters who received Section 8 assistance. The Final Determination of the Human Rights Commission, reached on June 18, 2002, found that there were reasonable grounds to believe that P.G. Adams, Inc. discriminated against the Charging Party on the basis of receipt of public assistance. After the Executive Director actively engaged the parties in conciliation efforts for six months, which proved fruitless, the Commission declined to litigate on behalf of the Charging Party in large measure due to the commitment made by the respondent to fully consider as future tenants applicants who receive Section 8 housing assistance.

Lori Ann Parks v. Kevin Baillargeon

In her complaint filed on December 13, 2002, Ms. Parks charged that Mr. Baillargeon, her landlord, made statements indicating that he did not want her living in an apartment with two children, and denied her an opportunity to renew her lease. Mr. Baillargeon claimed that he was trying to sell the apartment. The investigation found that Mr. Baillargeon had made statements similar to those alleged by Ms. Parks, and that, while he did attempt to sell the apartment, did not inform Ms. Parks when he decided not to sell, and rented to another party. On April 10, 2003, the Commission found that there were reasonable grounds to believe that unlawful discrimination had occurred. With the assistance of a mediator the matter was successfully resolved. The respondent agreed to pay the charging party \$7,500 and, in the future, to abide by all provisions of state and federal fair housing law.

EMPLOYMENT

Gender Discrimination

Laurie Bergeron v. Vermont Department of Corrections

The Charging Party, a female correctional officer employed at the Northwest State Correctional Facility in St. Albans, alleged that she was the victim of sexual harassment and retaliation. Although the Respondent denied the charge, the parties entered into a settlement agreement resulting in the payment of \$56,000 to the Charging Party and the Department agreeing not to retaliate and to comply with applicable law in the future.

Michael Gates v. Vermont Agency of Natural Resources

The Charging Party, an openly gay male, alleged that he was the victim of sexual harassment and retaliation. Although the Respondent denied the charge, the parties entered into a settlement agreement resulting in the payment of \$24,500 and additional years of creditable service for retirement purposes to the Charging Party in exchange for his letter of resignation.

Darius Pansiak v. Vermont Department of Corrections

On July 21, 2002, the Charging Party, a correctional officer employed at the Northwest State Correctional Facility in St. Albans, filed a complaint alleging that he was the victim of national origin harassment and was dismissed in retaliation for his filing of complaints. On February 19, 2003, the Human Rights Commission found reasonable grounds on the national origin harassment allegation but no grounds on the retaliation claim. The parties are actively engaged in mediation in an effort to resolve this dispute.

LEGISLATIVE ACTIVITY

Among the responsibilities with which the Legislature has charged the Human Rights Commission is the duty to "examine and evaluate" the effectiveness of Vermont's civil rights laws and "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights." The Commission is further mandated to "recommend measures designed to protect those rights." 9 V.S.A. § 4552(a). The Commission fulfills this mandate by, among other things, suggesting legislation designed to protect Vermonters' civil rights, commenting on proposed legislation that would affect civil rights, and providing information and advice to the Legislature.

During the 2003 Legislative Session, the Human Rights Commission worked to secure the passage of the bills described below.

H. 113 Racial Harassment in Schools Accountability Act

The House Education Committee spent many hours taking testimony on this bill introduced by Rep. Mark Larson of Burlington as a result of the Burlington Anti-Racism Coalition launched by the Human Rights Commission and other organizations. In testimony, the Department of Education acknowledged that the data collection which it is directed to conduct has been less than consistent, although it is reported to be improving. There is no doubt that there are serious problems around racial harassment in some Vermont schools. The quality of response is quite varied.

When Executive Director Robert Appel testified, many questions were posed about legal liability, and clarification of present law versus an expansion. The Education Committee seemed to understand that many of these issues would need to be considered by the House Judiciary Committee. The Education Committee showed considerable interest in the general issue, but concerns about increasing accountability for administrators and teachers and staff.

Former Commissioner of Education Ray McNaulty testified that there is a real and significant problem of racial and other forms of student on student harassment in Vermont schools, that there is diversity in the quality of response among schools, that there is a need for increased training and support of district equity coordinators but presently his department does not have additional funds available to support this work. He acknowledged that there is no present monitoring of the work of district equity officers, but resisted the notion that the Commissioner appoints school civil rights officers. He recommended a routine training package on the issue of school harassment, but needs more funding to do so. Commissioner McNaulty released year two (01-02) of data results which showed that 25% of all 2551 reported incidents were identified as being based on race, up from the 7% reported in 00-01. The number of schools reporting jumped from 217 in year one to 304 in year two (out of approximately 350 Vermont schools covered by the law). This data is quite striking.

The House Education Committee heard from a number of persons directly affected by school harassment including former Rep. John Edwards about the MVU events of last spring, Eric Sakai who is Chair of the State Advisory Committee to the U.S. Commission on Civil Rights, Vermont Institute Equity Coordinator Kathy Johnson, Gov. Phil Hoff, Prof. Bob Walsh, and Phyl Newbeck of the Vermont Teacher Diversity Scholarship. Hearing from these witnesses renewed the Committee's resolve to push

forward on the bill. There was general support for refining definitions and renewing schools' commitments to having trained persons available to receive and investigate complaints, but continuing concern about increasing potential liability.

The final version of the bill which was ultimately passed out by the House Education Committee on a 6-5 vote did not contain many elements of either the bill as it was introduced, or even as the bill initially came out of the House Education Committee two weeks earlier. The substitution of the new re-write was not controversial on the House floor on May 22nd when the House voted that the substitution be allowed and that the bill be referred to the House Judiciary Committee. The Chair of that Committee, Peg Flory of Pittsford (R), has committed to taking the bill up once the Legislature reconvenes in January. Proponents of the bill are disappointed not to have gotten more of the original bill included, but having a defined obligation for schools to investigate and promptly remedy conduct found to be unlawful harassment is a major step forward. This bill also describes conduct, which constitutes racial harassment and raises its status and profile to the level of existing law with respect to sexual harassment.

H. 282--Racial Disparity in Criminal Justice

H. 61 --Funding to Complete Racial Disparity Study

H. 282 was introduced on February 25th and was given an initial hearing on March 12th combined with H. 61. H. 61, introduced by Rep. Brooks, provides \$50,000 to complete a recently released study by the Vermont Center for Justice Research, "Exploring the Dynamics of Race and Crime Using Vermont NIBRS Data—Executive Summary." Dr. William Clements, the author of this report, testified to his findings that there are statistically significant disparities based upon the race and gender of the offender and that there are no obvious non-discriminatory explanations available at this time. However, further research is warranted because his study did not control for a suspect's criminal history. Public Safety Commission Kerry Sleeper testified in support of the need to collect data, but more importantly, to be more intentional in police training to ensure no biased enforcement. He committed to a new training regimen akin to the domestic violence trainings of a decade back, and stated that "now" plans are in the works. The Committee took no action on H. 282 as the chair has labeled the creation of a task force "premature" awaiting the outcome of further data collection and analysis. On March 19th, H. 61 was passed by the Committee (8-3) and has been referred to House Appropriations.

Act No. 49 Relating to Eliminating Mandatory Retirement for Judges

This act raises from 70 to 90 the age at which supreme court justices and judges of all subordinate courts must retire. The bill was signed and became effective on June 2, 2003.

Act No. 17 Relating to Permitting Service Dogs in Places of Public Accommodations

This act requires a public accommodation to allow on its premises a service animal and its trainer for the purposes of training the animal and to allow a service dog to accompany and stay with its handler.

MEDIATION PROGRAM

The Human Rights Commission instituted a Mediation Program in 1998 to provide professional mediators at no cost to parties to assist them in resolving their cases in a mutually acceptable manner.

If the Commission's staff determines that a case is appropriate for mediation, it sends the parties information about mediation and an invitation to participate in the mediation program. Mediation is entirely voluntary; it will not take place unless both parties agree to it. If the parties elect to participate in mediation, they meet with a mediator who attempts to help them to work out a mutually satisfactory resolution of the case. If the mediation produces a settlement, which the Commission accepts, the Commission will close the case and take no further action except to assist in enforcing the terms of the settlement, if that becomes necessary. If the case is not settled through mediation, the Commission's staff will complete the investigation of the case and the Commission will issue a final determination and if cause is found, enforcement action may ensue if conciliation fails.

The Mediation Program fulfills a number of Commission goals:

- Mediation is an effective method for achieving equitable results through a collaborative, rather than an adversarial, approach to resolving disputes. Studies have shown that there is greater satisfaction with dispute resolutions arrived at through the approach used in mediation than through resolutions imposed in litigation. In addition, mediation is quicker and less expensive than investigations and litigation.
- Discrimination charges are often only one facet of parties' disputes. Mediation allows parties to be creative in crafting a resolution of the full range of issues dividing them.
- The Commission's staff has always attempted to facilitate settlements and continues to do so. However, because of the Commission's fact-finding and enforcement functions, some parties are reluctant to discuss their positions with the staff with a frankness that is conducive to settlement. Since what goes on in mediation is confidential, parties' discussions are less inhibited. In addition, although attempting to facilitate settlements is an important role of the Commission's staff, unlike mediators, the staff cannot devote their exclusive attention to conciliation.
- Mediation allows the Commission to focus its limited resources on cases which cannot be settled, cases which raise broad policy issues, cases which affect a large number individuals and cases in which the respondent has previously violated the law.

Through FY03, the Commission has provided mediation in 62 cases since the Program's inception in FY96. Mediation led to settlements in 38 cases resulting in a total in excess of \$350,000 in compensation paid to charging parties.

During FY02, the Commission changed its process and offered mediation to the parties in almost every case upon notification to the Respondent. The Commission hopes that its changed procedure inviting parties to engage in mediation with a professional mediator at the beginning of the investigative process will result in more mediations, and more successful mediations, in future years.

More than three out of four of the mediations occurred before the Commission completed its investigation and rendered its determination. This percentage has increased during the time period in question as 83% of all mediations in the last 5 years were before a final determination, as compared to 58% during FY96-97. This is directly attributable to the Human Rights Commission's use of professional mediators that commenced in 1998, and more aggressive marketing of the program by Human Rights Commission staff since that time.

Some of the settlements arrived at through mediation during FY03 are described below.

Housing Cases

- In a "cause" case, the Commission found that a landlord had discriminated against a single woman with one child expecting a second by refusing to renew her lease. With the assistance of a mediator the matter was successfully resolved. The respondent agreed to pay the charging party \$7,500 and, in the future, to abide by all provisions of state and federal fair housing law.
- In another set of "cause" cases in which the Commission found that a landlord had discriminated persons because of emotional disabilities by making inappropriate inquiries about the parties' disabilities, including asking about their medications. The Commission also determined that the property manager in one case made statements discouraging people with disabilities from applying, and in another case refused a request to meet with the party's peer counselor to discuss a possible accommodation. Both cases were successfully resolved through efforts of commission staff and a professional mediator. In both cases, the respondent agreed to pay the charging parties compensatory damages in an amount totaling over \$10,000. In addition, the respondent has revised its fair housing policies, developed a reasonable accommodation policy and request form and has engaged a fair housing consultant to conduct training for the respondent's board members and all of its staff.

LITIGATION

If the Commission finds reasonable grounds to believe that discrimination occurred in a case, for a period of six months, the Executive Director attempts to settle the case in a manner which eliminates the discrimination and its effects either directly or through the assistance of a professional mediator. If this effort is unsuccessful, the Commission is authorized to initiate a lawsuit seeking an injunction, damages, attorney's fees, and a \$10,000 civil penalty for each violation proven. The Commission engaged in litigation in the following cases in FY03:

Human Rights Commission v. Benevolent and Protective Order of Elks of the United States of America and Benevolent and Protective Order of Elks, Hartford, Vermont, Lodge No. 1541, Washington Superior Court

In 1995, the Elks repealed its rule prohibiting women from becoming members. In 1997, six women applied for membership in the Hartford Elks Lodge. Each woman had been associated with the Lodge over a long period of time, each met all the qualifications for membership, and each was recommended for membership by the Lodge's Membership Committee. Nevertheless, the Lodge rejected each of their membership applications. The Lodge had 1,008 male members and no female members at the time and had not rejected a membership application during the previous five years.

The Commission filed a lawsuit contending that the Elks denied the women membership because of their gender in violation of Vermont's Fair Housing & Public Accommodations Act. The parties completed discovery and moved for summary judgment in January 2001.

In October 2001, the court dismissed the case on the ground that the Elks is a private club and, therefore, not covered by the state's civil rights law. The Commission appealed the decision to the Vermont Supreme Court, which heard oral argument in September 2002. In November 2003, the Supreme Court agreed with the Commission's position that the issue of whether or not the Elks Club is truly "highly selective" is a contested factual matter that should be decided by a jury, and not a judge. The matter was remanded to the Washington Superior Court for further proceedings and trial by jury.

Human Rights Commission and Katherine LaPrad v. Cedar Glen North Association and Marjorie Westphal, Washington Superior Court

The Commission sued a condominium association and its Treasurer for violating the prohibition in the Fair Housing & Public Accommodations Act against making statements of "preference, limitation or discrimination" in the sale or rental of housing because a person intends to occupy the housing with minor children. 9 V.S.A. § 4503(a)(3). The complaint charges that the Treasurer of the condominium association attempted to

discourage a woman with a minor child from purchasing a unit in the complex by telling her that the association did not want children living there, that families with children would not be comfortable living there, and that it was not the place for her.

In July 2003, the matter was resolved with the assistance of a professional mediator resulting in the Association paying Ms. LaPrad \$15,000 in compensatory damages and attorney's fees. In addition, the Association agreed to have its officers attend a Fair Housing Seminar presented by Commission staff.

Vermont Human Rights Commission and Darcy Young (and as GAL on behalf of her two minor children) v. Preston Property Management, Inc.

The Charging Party alleged that Preston Property Management refused to rent an apartment to her because she received Section 8 housing assistance. The owner of the company did not deny the charge, claiming that Section 8 is a voluntary program. The Commission determined that by making a blanket refusal to participate in Section 8, Preston violated the provision of Vermont's Fair Housing law that makes it illegal to discriminate on the basis of receipt of public assistance, including federal housing assistance.

On January 27, 2003, the Commission and Ms. Young filed suit after Preston Property Management refused to enter into conciliation discussions. The matter was resolved by a Consent Decree approved by the Washington Superior Court on August 1, 2003, which requires Preston to assist the Charging Party in finding a new apartment, and to welcome future Section 8 participants as applicants

GLOSSARY

Some of the terms used in the graphs appearing on the following pages are defined below.

Administrative Dismissal: Cases closed for one of the following reasons: failure of the Charging Party to sign and return a charge to the Commission, failure of the Charging Party to cooperate with the investigation, failure of the Charging Party to substantiate the charge, or lack of jurisdiction.

Final Determination: The vote of the Commissioners on the charges in a case. Final determinations are based on the Investigative Report prepared by the staff, written comments submitted by the parties, and oral presentations to the Commissioners by the parties or their representatives at a Commission meeting. The final determination can be a finding that there are **reasonable grounds** or **no reasonable grounds** to believe that unlawful discrimination occurred. If a charge claims that discrimination was based on more than one protected category, a final determination in the case will generally include findings as to each protected category. The Commissioners may also vote to reopen a case for further investigation; if that occurs, the Commissioners will issue a final determination at a subsequent Commission meeting. If only four Commissioners take part in the deliberations on a case, with two voting to find reasonable grounds and two voting to find no reasonable grounds, the final determination is a **tie** which the Commission treats as a no grounds finding.

Informational Inquiries: The Commission's staff receives and responds to a wide variety and a large number of requests for information about anti-discrimination laws enforced by the Commission or other agencies and allegations of illegal acts over which the Commission does not have jurisdiction, such as, for example, allegations of violations of constitutional rights or of state and federal statutes which the Commission is not authorized to enforce.

Pre-Determination Conciliation Agreement: The settlement of a charge of discrimination before the Commission has made a final determination is called a Pre-Determination Conciliation Agreement (PDCA). PDCA's are voluntary agreements between the parties and frequently include terms proposed by the Commission. The Commission encourages the parties to enter into PDCA's. PDCA's are public documents.

Post-Determination Conciliation Agreement: The settlement of a charge of discrimination after the Commission has made a final determination that there are reasonable grounds to believe that discrimination occurred is called a Post-Determination Conciliation Agreement (Post-DCA). Post-DCA's are voluntary agreements between the parties and the Commission reached in lieu of litigation. If the parties do not sign a Post-DCA within six months of the final determination, the Commission will decide whether to commence litigation or to dismiss the case. The Commission encourages parties to enter into Post-DCA's. Post-DCA's are public documents.

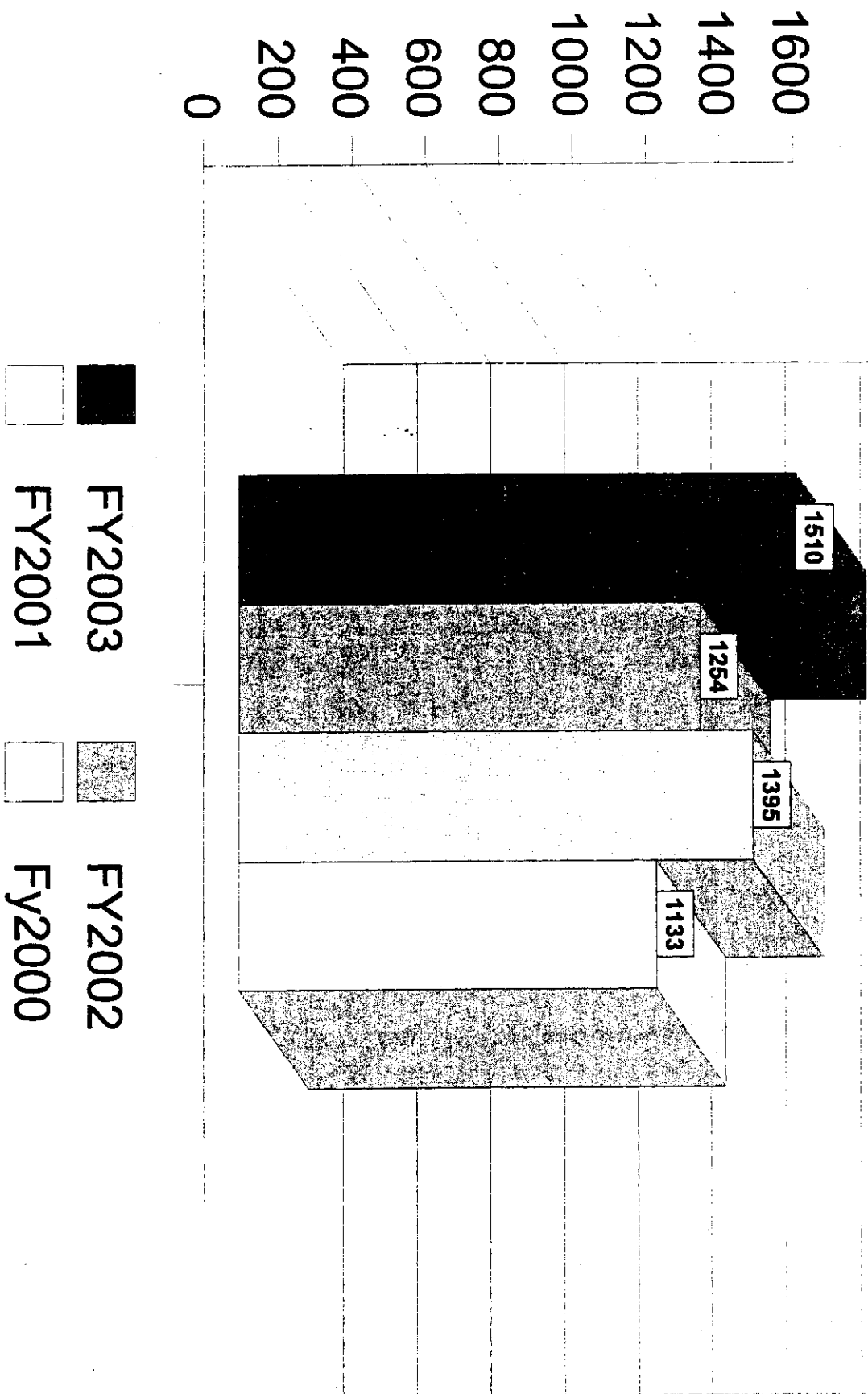
Protected Category: A characteristic or condition of an individual (such as, e.g., race, sex, sexual orientation, national origin, disability). Vermont law prohibits discrimination in housing, places of public accommodation, and employment on the basis of certain protected categories. A charge filed with the Commission may allege discrimination on the basis of more than one protected category.

Withdrawal: A party may withdraw his or her charge of discrimination at any time prior to a final determination, with the approval of the Commission's Executive Director.

CHARTS AND GRAPHS

NUMBER OF INFORMATIONAL INQUIRIES	33
NUMBER OF CHARGES FILED	34
BREAKDOWN OF FINAL DETERMINATIONS	35
BREAKDOWN OF CASES CLOSED	36
HOUSING CHARGES BY CATEGORY	37
STATE GOVERNMENT EMPLOYMENT BY CATEGORY	38
PUBLIC ACCOMMODATIONS CHARGES BY CATEGORY	39
MONETARY RECOVERIES IN COMMISSION CASES	40

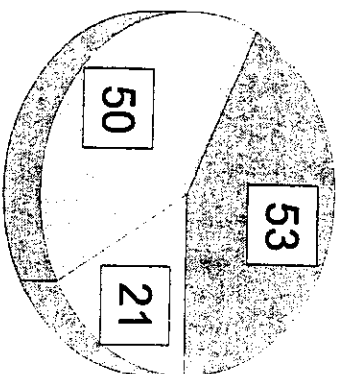
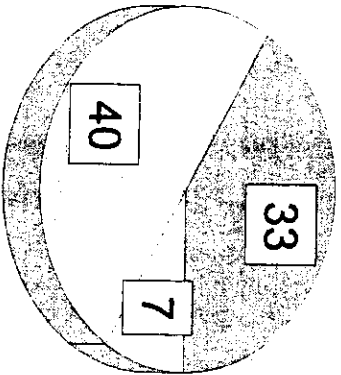
NUMBER OF INFORMATIONAL INQUIRIES RECEIVED ANNUALLY



NUMBER OF CHARGES FILED ANNUALLY

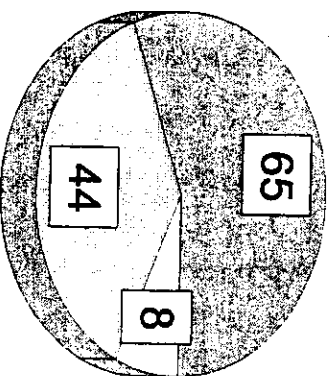
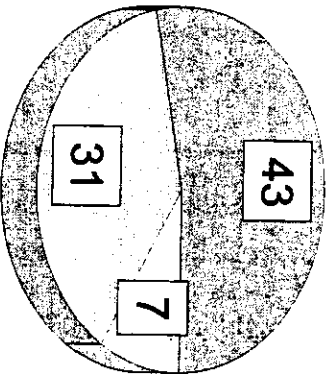
FY2003 - 80 Charges

FY2002 - 124 Charges



FY2001 - 81 Charges

FY2000 - 117 Charges



 HOUSING

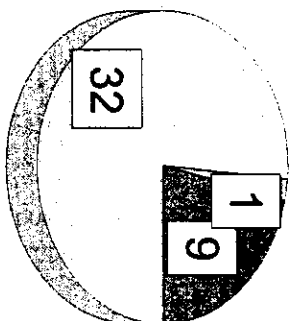
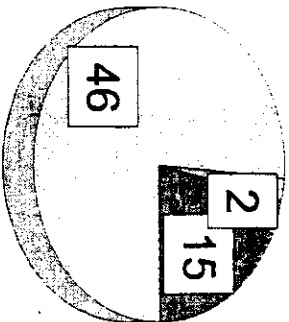
 PUBLIC ACCOMMODATIONS

 STATE GOVERNMENT EMPLOYMENT

ANNUAL BREAKDOWN OF FINAL DETERMINATIONS

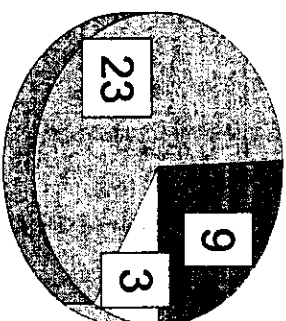
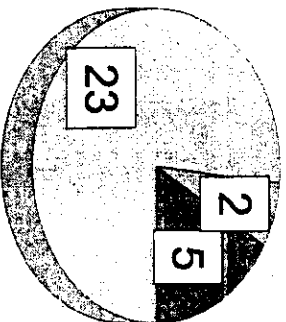
FY2003 - 63 Charges

FY2002 - 42 Charges



FY2001 - 30 Charges

FY2000 - 35 Charges



REASONABLE GROUNDS



REOPENED

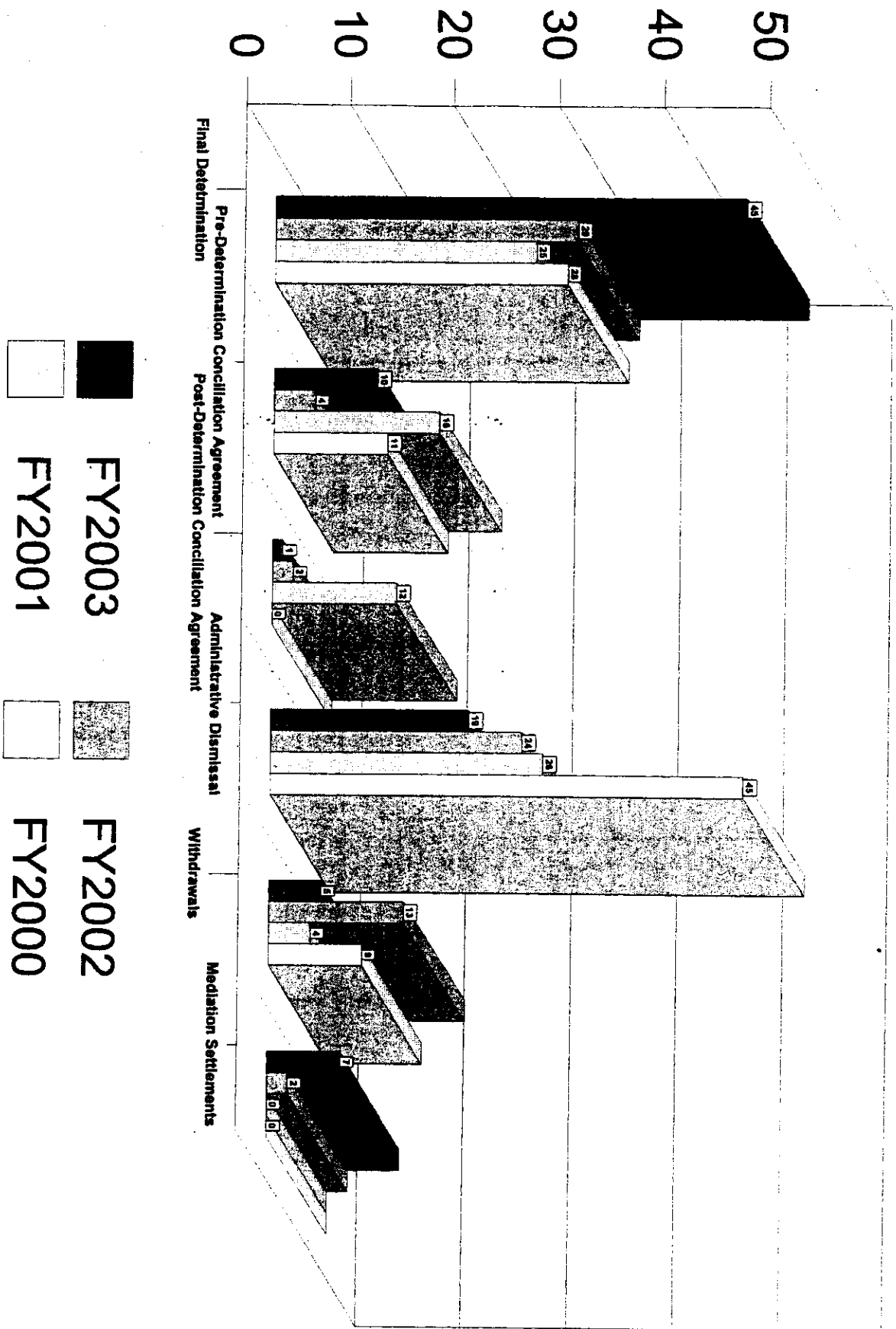


NO REASONABLE GROUNDS

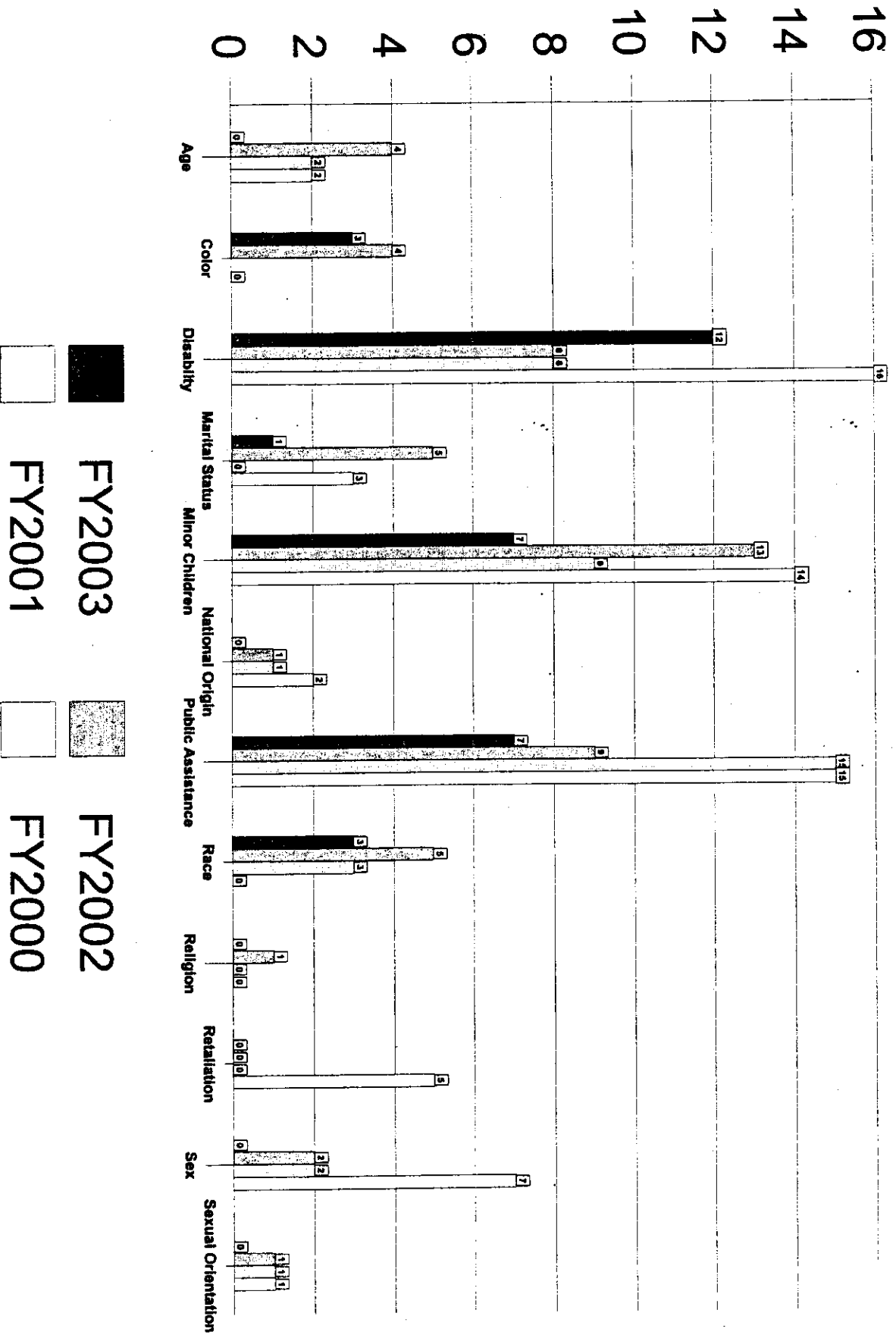


TIE VOTE

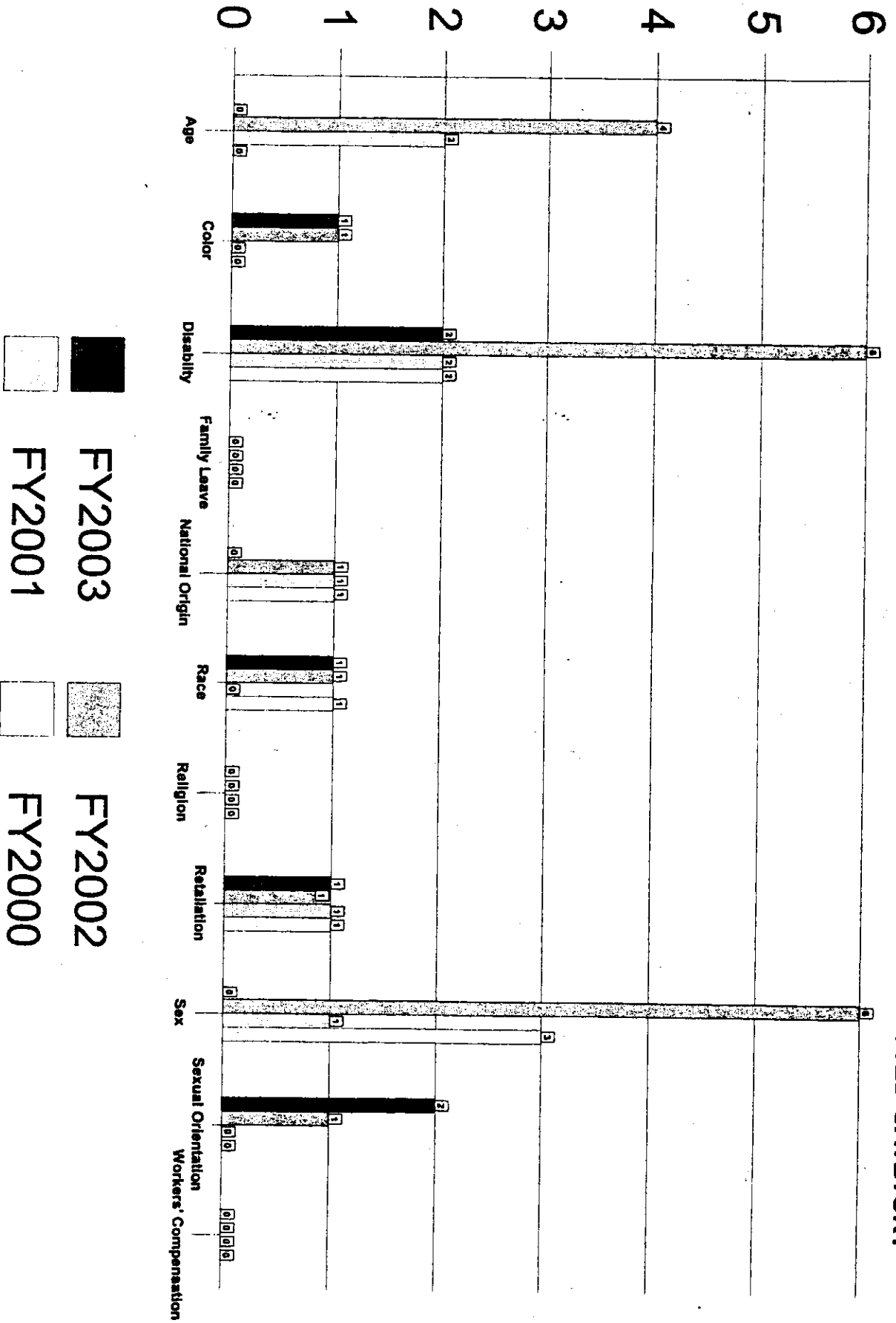
BREAKDOWN OF CASES CLOSED ANNUALLY



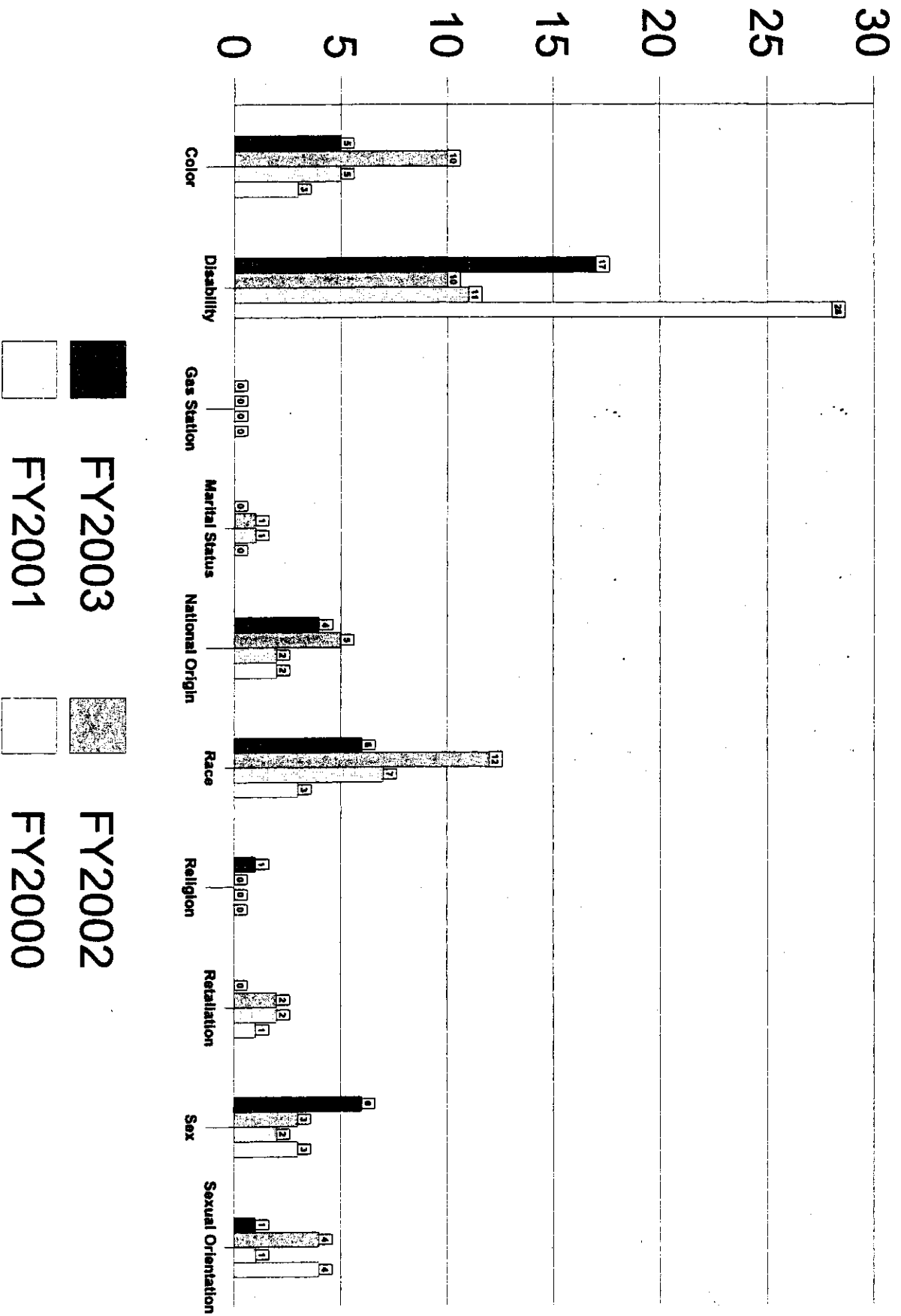
BREAKDOWN OF HOUSING CHARGES BY PROTECTED CATEGORY



BREAKDOWN OF STATE GOVERNMENT EMPLOYMENT CHARGES BY PROTECTED CATEGORY



BREAKDOWN OF PUBLIC ACCOMMODATION CHARGES BY PROTECTED CATEGORY



MONETARY RECOVERIES IN COMMISSION CASES

